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RESOURCE INFORMATION REQUIREMENTS FOR STATE LAND USE PLANNING

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Traditional attitudes about land use decision-making are undergoing great change. A number of States have taken action to control ██████ critical areas of more than local concern such as coastal zones, shorelines, wetlands, and flood plains. Some States plan and regulate land uses, such as siting of transmission lines, power plants, waste disposal, and others. The Federal Government has encouraged States to take an active role in land use planning, and legislation that would support them in this role has been introduced in the Congress.

I will summarize recent legislation that bears directly on States' role in land use planning, describe resource information requirements for State land use planning, and discuss resource data and analytic services of the Federal Government that will be of use to States in land use planning. I will close with some remarks about the role of agricultural economists in State land use planning.

1/ Prepared for Workshop on Land Use Problems, Resource Economics Committee of the Great Plains Agricultural Council. Fargo, North Dakota, Oct. 9-11, 1972. Max Tharp, ERS, and William Ralston, SCS, provided helpful reviews.

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Summary of Major Bills

1. The Land Use Policy and Planning Assistance Act of 1972 (S. 632), also known as the Jackson bill, was passed by the Senate on September 19. The legislative history of this bill extends back in time to 1970, when it was introduced as a bill to amend the Water Resources Planning Act of 1965. The bill passed by the Senate is "An act to establish a national land use policy; to authorize the Secretary of the Interior to make grants to assist the States to develop and implement State land use programs; to coordinate Federal programs and policies which have a land use impact; to coordinate planning and management of Federal lands and planning and management of adjacent non-Federal lands; and to establish an Office of Land Use Policy Administration in the Department of the Interior, and for other purposes." ^{3/} The bill originally authorized \$100 million annually for planning assistance grants to States for the first 8 years; an amendment to the bill reduced this amount to \$40 million annually for the first 2 years and \$30 million annually for the next 3 years.

S. 632 goes further than the other two bills in its requirements by specifying that the States must prepare both a land use planning process and a land use program. The other bills would not require States to develop a land use program in order to comply with the law. ^{4/}

^{3/} Congressional Record. S. 15284. September 19, 1972.

^{4/} For additional background on S. 632, see the Congressional Record of September 18 and 19 pertaining to the bill and amendments offered to it; information and analysis of S. 632 prior to final amendments enacted by the Senate are in Land Use Policy and Planning Assistance Act of 1972, Report of House Committee on Interior and Insular Affairs, U.S. Senate. Senate Report No. 92-869. June 19, 1972.

2. The National Land Use Policy Act of 1972 (S. 992), the Administration-sponsored bill, was first proposed in the President's environmental message to Congress, February 1971. Its thrust was, and continues to be, directed toward environmental problems and a search for institutional reform that would encourage States to take the lead role in planning and regulating major developments affecting the growth and use of critical land areas. Amendments to the bill in 1972 broadened States' responsibilities for controlling the siting of major transportation facilities (in addition to planning land use around such facilities--provided for in the first version of the bill). A unique feature of S. 992--subsequently added to the other bills--is the provision for identifying and planning environmentally critical areas. These areas are defined only in the broadest terms--"coastal wetlands, marshes, and other lands inundated by the tides" or "scenic or historic areas" to mention two examples. Presumably, these descriptions identify national priorities to the States without prescribing how to plan use of the areas or requiring that the entire State be included in the land use plan.

Funding proposed for S. 992 is \$20 million annually for 5 years, for grants to States. As is proposed for the two other bills, S. 992 would be administered by the Department of the Interior. There is no provision for a coordinating office or for inter-agency coordination other than with the Department of Housing and Urban Development.

3. The National Land Policy, Planning, and Management Act of 1972, (H.R. 7211). This bill, known as the Aspinall bill, has been reported out of Committee and is awaiting action by the House of Representatives. The bill is unique among the three for including Federally owned lands within its coverage. All or part of 160 statutes are repealed by the bill, including various settle-

ment laws and withdrawal authorities that would be replaced by a public land use planning and classification program. The public lands provisions of H.R. 7211 have, as their Administration counterpart, The National Resource Lands Management Act of 1972, S. 1049. A principal difference between the two bills is that the Administration bill applies only to lands managed by the Bureau of Land Management while H.R. 7211 would apply to all Federally owned lands. But H.R. 7211 is in agreement with the others in recognizing that major responsibility for planning the use of non-Federal lands rests with the States.

H.R. 7211 is between the other bills in the level of funding for State grants and Federal cost-shares. It authorizes up to \$54 million annually, the amount trending downward to \$8 million annually after 5 years. Federal cost-shares start at 90 percent and decrease to 50 percent. ^{5/}

Each of the three national land use policy bills contained very strong penalties for States that failed to comply with the Act. The penalties included ineligibility to receive grants, and a withholding of Federal funds for highways (excluding Interstate Highway funds) and airport development, and funds from the Land and Water Conservation Funds. An amendment to S. 632, however, reduced the penalties in that bill largely to a withholding of land use planning grants from ineligible States.

4. Coastal Zone Management (S. 3507 and H.R. 14146). These bills have an overall purpose to encourage coastal States to develop land and water use plans for their coastal zones by providing Federal grants to States. States that adjoin the Atlantic and Pacific Oceans, Gulf of Mexico, and Great Lakes would be eligible for the planning assistance grants. Each of the bills has been passed and the legislation is with a conference committee.

^{5/} For additional information on H.R. 7211, see National Land Policy, Planning, and Management Act of 1972. Report of the Committee on Interior and Insular Affairs, House of Representatives, H.R. Report No. 92-1306, August 7, 1972.

Major Provisions of S. 632

S. 632 as passed by the Senate consists of five titles:^{6/} Title I includes an expression of national interest in a more efficient system of land use planning and decision-making, and describes many of the inadequacies in the present system. Policy declarations are made that the Federal Government, consistent with responsibilities of State and local governments for land use planning and management, has a responsibility to develop and implement a national land use policy; that national policy favors land use plans that incorporate environmental, esthetic, economic, social, and other factors; that State governments are to be assisted in planning land use; that Federal programs will be coordinated with State plans; and that land use, environmental, economic, and social data will be exchanged among all levels of government.

Title II establishes a new Office of Land Use Policy Administration in the Department of the Interior. The Office would administer the grant program; maintain a study of land resources and their use; cooperate with the States in developing standard methods for collecting, classifying, and disseminating data; and develop and maintain a Federal Land Use Information and Data Center to transmit land use data between various Federal agencies and to the States, local governments, and members of the public.

^{6/} Congressional Record. S. 15278 - S. 15284. September 19, 1972.

Title II also established a National Advisory Board on Land Use Policy that would represent Federal Departments and serve in a coordinating and communicating role between the Secretary of the Interior and other Departments and agencies. Representation on the Board would include the Departments of Agriculture, Commerce, Defense, Housing and Urban Development, Transportation, and Health, Education and Welfare; and the Atomic Energy Commission and the Environmental Protection Agency. Observers would be appointed from the Council on Environmental Quality, the Federal Power Commission, and the Office of Management and Budget. Interstate coordination of land use planning is recognized as a problem, and States would be authorized to enter into interstate compacts for coordinating land use plans. Federally established interstate agencies might also participate in interstate coordination of land use plans.

Title III provides a grant program to States to assist them in developing a statewide land use planning process within 3 years of enactment, and a State land use program within 5 years of enactment. The planning process includes a continuing resource inventory and compilations of economic, environmental, and demographic data; projections of future resource needs and supplies; analyses of planning capabilities; and establishment of methods for such activities as identifying areas of critical environmental concern, training, exchanging land use planning information, and for planning, implementing, and coordinating land use plans.

The part of Title III having to do with State land use programs is very complex. This is borne out by the discussion of the bill as reported in the Congressional Record. As a condition of continued eligibility for land use

planning grants, States must have developed a land use program, within 5 years from date of enactment, which would include an adequate land use planning process, and methods of implementation either by local or the State government. The explanations in the Committee report and the discussions recorded during the Senate debate strongly suggest that State governments are not required to take over local land use programs where these exist and are effective. On the contrary, Senator Jackson, in explaining an amendment that he offered, said that "The amendment gives a clear preference for the local implementation alternative, not to direct State planning." 7/

When the State Government does implement the State land use program it is to exercise control over areas of more than local significance including: 1) Areas of critical environmental concern, 2) key facilities, 3) development and land use of regional benefit, and 4) large-scale development. Provision is made for administrative appeal procedures against actions taken under the State land use program.

Title III also prescribes procedures for determining grant eligibility and for obtaining consistency of Federal actions with State land use programs. As a condition for continued grant eligibility, the Secretary of the Interior is to review the State land use program and determine, among other things, that the State has not omitted any substantial areas of critical environmental concern from the program. State Governors may, if they wish, request that the Secretary of the Interior provide, within 3 years of enactment, a description of all areas of critical environmental concern within the State that are of national significance.

7/ Congressional Record. S. 15271. September 19, 1972.

Title IV of the bill provides for Federal-State coordination and cooperation in the planning and management of Federal and adjacent non-Federal lands. Federal land-managing agencies are required to take account of State land use programs. But State land use programs must, as a condition for obtaining grant eligibility, insure that Federal lands within the States are not damaged or degraded by inconsistent land use patterns. The Secretary of the Interior may establish an Ad Hoc Federal-State Joint Committee, made up of representatives of Federal and State agencies, local governments, and user groups, to advise and make recommendations about conflicts over planning and management of Federal and non-Federal lands.

Title IV also requires that the Secretary of the Interior report biennially on matters related to coordination of Federal and non-Federal land use planning.

Title V consists of several general provisions, including a requirement that the Secretary of the Interior report biennially to the President and Congress on land resources; definitions, including the classes of critical environmental areas; and fund allotments and authorizations. One of the first amendments to the bill, and which passed 44 to 35, reduced the authorized funding of the bill from \$100 million annually for 8 years to \$40 million annually for the first 3 years and \$30 million annually for the next 2 years. The bill also authorizes \$10 million annually for 5 years to the Interior Department to administer the Act. After the fourth year, the Secretary of the Interior is required to review the program established by the Act and report to the Congress with recommendations for needed amendments to the Act.

Summary of S. 632

The principal characteristics of S. 632 as it is intended to operate were described by Senator Jackson, author of the bill, before Senate action was completed. The characteristics were expressed as "What S. 632 Does and Does Not Do." The characteristics, summarized below, may be helpful as an interpretation of the bill's purposes and how the Act would be administered. ^{8/}

- 1) S. 632 "does not mandate, require, or allow 'Federal planning' or 'Federal zoning.' The zoning power is based on the State's police power and the Federal government does not have authority to zone State or privately owned land (with the exception of the District of Columbia which is a special and unique case)."
- 2) S. 632 "does not substitute Federal authority or review of State and local decisions on the use of State and local lands." The bill is viewed as an enabling act that encourages State actions.
- 3) S. 632 "does not provide inflexible Federal standards which require State compliance." ... "States and local governments know best their own land use problems...."
- 4) S. 632 "does not require comprehensive State planning over all its lands. The State land use program is definitely not to be a comprehensive statewide program which preempts the myriad of local decisions, but rather one focused on four critical areas and uses of more than local concern."
- 5) S. 632 "does not mandate State zoning, rather reasserts local zoning power. The States are encouraged to develop their programs not by

^{8/} Congressional Record. Adapted from statement by Senator Jackson. S. 15248, September 19, 1972.

zoning or by producing a master plan, but by reasserting the whole range of local governments, land use authority, and providing guidelines for the use of that authority."

- 6) S. 632 "not only does not impinge upon or alter the traditional land use responsibilities of urban government, but also does not focus on urban lands."
- 7) S. 632 "does not tell a State how much or what specific land must be included in the State program."
- 8) S. 632 "does not alter any landowner's rights to seek judicial redress for what he regards as a 'taking'."

The statement continued with several points concerning what the bill does do. Some of these points were changed or omitted as a result of amendments; the others have already been discussed, so it is not useful to repeat them here.

To summarize: S. 632 is a complex bill on a controversial topic. There are many unanswered questions concerning its implementation and about its impact if it is enacted in law.

Resource Information Requirements

Any of the proposed national land use policy bills would sharply increase the needs of the various States for the services of resource specialists to obtain and organize the information needed for land use planning. Each of the bills would require a State to formulate a land use planning process within 3 years. A large part of the work would involve the collection and interpretation of resource information and the development of methodology

related to land use planning. Under S. 632, for example, the planning process includes 14 activities; 8 of the items are directly concerned with resource inventories, analyses, and planning methodology: ^{9/}

1. Preparation and continuing revision of statewide inventory of natural resources;
2. Compilation and continuing revision of demographic, economic, and environmental data, and data on urban and rural growth;
3. Comprehensive projections of resource supplies and uses;
4. Inventories of environmental, geological, and physical conditions that influence the desirability of various types of land use;
5. Inventories of needs concerning Federal lands within the State;
6. Inventories of government organization and financial resources available for land use planning within the State;
7. Establishment of a method for identifying large-scale development and land use of regional benefit;
8. Establishment of a method for inventorying and designating areas of critical environmental concern and areas impacted by key facilities.

Support for Expanded Resource Information and Analyses

Probably few States now have information and planning capabilities to meet their responsibilities under the law. Planning assistance grants, matched in part by State funds, will be the main source of support for developing this capability. Other assistance to States can be provided through a Federal Land Use Information and Data Center and regional branches, a function provided for in both S. 632 and H.R. 7211. The Federal Land Use Information and Data Center would maintain information on: Federally initiated and federally

^{9/} S. 632, Section 204

assisted activities which directly and significantly affect or have an impact upon land use patterns; plans and programs of States and local governments and private enterprise which have more than local significance for land use planning and management; statistical data and information on past, present, and projected land use patterns which are of more than local significance; and studies pertaining to methodology of planning.^{10/}

S. 632 also provides that the Office of Land Use Policy Administration conduct a continuing study of land resources of the United States and their uses. The Office also would be required to cooperate with the States in developing standard methods and classification for collecting land use data. Except for these activities, no provision is made in the national land use policy bill for maintaining a national framework of land use data and system of classifications, or for national land use projections in addition to studies and analyses already being made.

The Department of Agriculture has extensive experience in collection and analysis of natural resources information, and it is expected that this would be available and used in planning and implementing State land use programs. More attention is being given to policy issues concerning land use in rural areas as a basis for developing programs to encourage desired land use.

An important addition to the Department's natural resources capabilities is authorized in the Rural Development Act of 1972. Section 302 of the Act directs the Secretary of Agriculture to carry out a land inventory and monitoring program "to include, but not be limited to, studies and surveys of erosion and sediment damages, flood plain identification and utilization,

^{10/} S. 632. Section 202.

land use changes and trends, and degradation of the environment resulting from improper use of soil, water, and related resources." A land inventory report is to be issued at not less than 5-year intervals. Under this new authority, the Department will strengthen its collection and analyses of natural resources information and be better able to assist the States in land use planning as well as to better carry out its nationwide responsibilities relating to natural resources.

A Role for Agricultural Economists

Much of the focus of the proposed legislation is on land use in rural areas, especially those areas experiencing or about to experience major land use changes because of urban development. There is a continuing need for reliable information--local, regional, and national--concerning the economic consequences of converting agricultural land to nonagricultural uses. Part of the problem is a lack of agreement about what constitutes "prime farmland"; but going beyond this is the more difficult problem of measuring the importance of agricultural land to a community or State economy, when there is no national shortage of land for agricultural production.

There are other important economic issues involving rural land uses that State land use planners will face. For instance, agricultural technology improvements have increased the economic supply of land, but some concerns are expressed about the environmental impacts of agricultural chemicals and land improvement. Statewide agricultural land use planning is not called for in

the current bills but States must project future land supplies and needs. These projections could, in turn, have some bearing on plans and on attitudes toward nonagricultural development of farm land. Other current issues involving rural land use planning that have economic considerations include determining how wetlands should be used; assessing the environmental impact of flood control measures; determining whether forestry management practices should be changed in order to achieve land use planning objectives; disposing of urban wastes; controlling land use to protect water quality from sediment, animal waste, mine runoff, and irrigation return flow; planning recreation and open space; and controlling parcellation and subdivision of rural land. ^{11/}

The point I wish to make is that agricultural and rural land use problems will have an effect on State land use planning, but it is not always possible to fully evaluate these problems in a local or State framework. Agricultural economists and other natural resource specialists in the Department of Agriculture and the Agricultural Experiment Stations have carried on studies of these and related problems for many years. The experience they gained from these studies may soon have important new applications in State land use planning.

^{11/} For further discussion of environmental factors and rural land use, see Rural Land Use and the Environment -- Programs and Activities of USDA. Melvin L. Cotner. Statement before Air Quality-Water Pollution Advisory Board, San Francisco, California, March 27-29, 1972.

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